IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE THIRD DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.22140 of 1998

Between:

The Sneha Lorry Owners Association, Rep by its Secretary
Mr.A.Subbarami Reddy, Hariprasadnagar, Perala-Chirala, Prakasam District,
Regd.No.208/97-Registered under the Societies,
Registration Act 1860.

..... PETITIONER

AND

1 The Municipal Commissioner,
Chirala, Prakasam District.
2 Sri Gattu Venkata Subba Rao,
Gattuvari Street, Perala-523457, Prakasam District.
3 Sri Kanakala Swatantra Rao, Shantinagar Near ILTD Company,
Perala-523157. Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, forbearing the Respondents from collecting the fees from the members of the Petitioner Association in respect of their goods vehicles whenever their vehicles are loaded or unloaded in the Chirala-Perala Municipality areas pursuant to the Chirala Municipality Notification 1998-99 published in Supplement to the A.P., Prakasham District Gazette No.10 dt.10.3.98 by holding that the collection of such fees by the Respondents is illegal and without any authority of law.

Counsel for the Petitioner: MR. NOUSHAD ALI

Counsel for the Respondent No.1: MR.S.NAGESWARA REDDY

Counsel for the Respondent Nos. 2 and 3: None

The Court made the following:

ORDER:

The present writ petition is filed seeking a Mandamus forbearing the respondents from collecting the fees from the members of the petitioner-Association in respect of their goods vehicles in terms of Notification 1998-1999 published in Supplement to the A.P. Prakasam District Gazette No.10, dated 10.03.1998 for loading and unloading of goods in the notified market areas, by holding that the collection of such fees by the respondents is illegal and without any authority of law.

The case of the petitioner-Association, in brief, is that its members are the registered owners of Lorries, which are covered by transport permits to operate in the States of Andhra Pradesh, Karnataka and Tamilnadu and they often carry goods to Chirala and Perala towns. It is stated that the Chirala Municipality issued a Notification No.10, dated 10.03.1998 stating that any goods brought for sale into the markets and stalls of the Municipality are subject to payment of fee stipulated in the Notification and the right to collect such fee was given to respondents 2 and 3 in the open auction. The grievance of the petitioner-Association is that as per the Notification issued under Sections 271, 277 and 357 of the A.P. Municipalities Act, 1965, the Municipality has to collect fee from the vehicles which brought the goods for sale into the notified market areas only, but the respondents are collecting the fee from the members of the petitioner-Association, even though their vehicles are not entering the notified market areas either for loading or unloading the goods in those areas. Hence, the present writ petition is filed.

A counter affidavit is filed by the 1st respondent denying the allegations of the petitioner-Association and contending that the lorries, which brought the goods for business in the notified market areas are only liable to pay the fee specified in the Gazette and accordingly the Municipality is collecting the fee only from the vehicles, which brought the goods for the business purpose in the notified market areas, but not from all the lorries.

This court, at the time of admission of the writ petition on 01.09.1998, passed the

following interim order.

> "There will be interim stay of collection of market fee from the members of the petitioner-Association, provided their vehicles do not enter the notified market place or unload any goods therein, pending further orders.
>
> Petitioner to furnish the list of the members to respondents counsel."

When the matter is taken up for hearing, learned counsel for the petitioner as well as the learned counsel for the 1st respondent-Municipality submitted that pursuant to interim orders granted by this Court on 01-09-1998, the respondent-Municipality is collecting the fee from the members of the petitioner association, when their vehicles are entering into the notified market area, for loading or unloading the goods therein. Counsel appearing for both sides submitted that the writ petition may be disposed of in terms of the interim orders.

Having regard to the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition with the following observation.

The 1st respondent-Municipality is at liberty to collect the market fee from the members of the petitioner-Association, provided their vehicles enter into the notified market place or unload any goods therein. No costs.

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N.V. RAMANA, J.

Date**:** 03.03.2005

Nsr/Tvk

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Municipal Commissioner,
Chirala, Prakasam District.

2 Two CD copies

*Form-NIC-OGS/WP{**PRASAD**}*